

EXHIBIT 43

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By Electronic Mail

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**Re: *United States v. Gordon Coburn and Steven Schwartz*
Crim. No. 19-120 (KM)**

Dear Counsel:

Along with Jones Day, we represent Gordon Coburn in the above-referenced matter. We write, joined by our co-Defendant Steven Schwartz, to request the Government's assistance in obtaining from Larsen & Toubro Construction ("L&T Construction") documents to which the Court has already determined we are entitled. We make this request in an effort to avoid unnecessary judicial intervention and the concomitant delay that might otherwise result from taking the steps necessary for the Defendants to compel production of such documents.

On October 6, 2020, the Court granted the Defendants' motions to issue subpoenas to L&T Construction pursuant to Federal Rule of Criminal Procedure 17(c). *See* Dkt. No. 108. The Clerk of Court issued the subpoenas on October 16, 2020. Defendants have since made repeated efforts to serve the subpoenas to L&T Construction. However, L&T Construction has refused to accept service of the subpoenas or to produce to the Defendants any of the materials sought therein. Specifically, L&T Construction has refused to authorize its counsel, Debevoise & Plimpton LLP ("Debevoise"), to accept service on its behalf, as indicated by Debevoise via email on October 18, 2020. Moreover, L&T Construction rejected Mr. Coburn's attempt to serve a New Jersey-based related entity, Larsen & Toubro Infotech in Edison, New Jersey.¹ *See* Ex. A (October 20, 2020 T. Botti Aff.). Subsequently, by letter dated October 20, 2020, L&T Construction confirmed its refusal to accept service via either Debevoise or Larsen & Toubro Infotech. *See* Ex. B (October 20, 2020 Debevoise Letter). L&T Construction has flatly denied that it is subject to the jurisdiction of the Court altogether. *See id.*

Judge McNulty has already held that the Defendants are entitled to subpoena the materials at issue from L&T Construction. *See* Dkt. No. 104. As described in the Defendants' subpoena applications and related pleadings, the materials sought from L&T Construction – as

¹ On October 5, 2016, the Government sent a Formal Request for the Preservation of Records related to its investigation to the same New Jersey-based entity. *See* LT00004744.

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amended by the Court – are essential to a full and fair adjudication of issues of constitutional import arising from the Government’s relationship with the companies in the course of investigating this matter. *See, e.g.*, Dkt. Nos. 70, 71, 78, 86, 100, 101.

Accordingly, having explored all of our options, we now request the Government’s assistance in our efforts to obtain from L&T Construction the materials it has refused to provide. The discovery produced to date demonstrates that L&T Construction – on multiple occasions across many months – voluntarily complied with document requests made by the Government during the investigation of this matter, sharing with the Government on a voluntary basis extensive documents and information.² Yet now, L&T Construction claims to be entirely beyond the reach of the United States legal system. Accordingly, we ask that the Government request that L&T Construction voluntarily also produce to the defense the materials set forth in the subpoenas, just as the Government sought voluntary productions from L&T Construction in the course of its own investigation.

Alternatively, if L&T Construction is not amenable to such a request for further voluntary cooperation, we ask that the Government invoke its authority under the Treaty Between the Government of the Republic of India and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters (“MLAT”) to seek these materials from L&T Construction in India on behalf of the Defendants. *See* Treaty Between the Government of the Republic of India and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters, Oct. 17, 2001, TIAS 05-1003.


² Specifically, the discovery demonstrates that L&T Construction – having collected more than 1.2 million documents pursuant to a voluntary internal review, *see* LT00004744–45 – made at least nine voluntary productions of documents and information, in response to multiple Government requests, between June 2017 and April 2018, *see* DOJ-LT-LTR-00000007, DOJ-LT-LTR-00000009, DOJ-LT-LTR-00000012, DOJ-LT-LTR-00000028, DOJ-LT-LTR-00000034, DOJ-LT-LTR-00000039, DOJ-LT-LTR-00000051. The documents and information voluntarily shared by L&T Construction with the Government included not only voluminous electronic materials but also the results of a forensic accounting review undertaken to identify suspicious transactions, *see* DOJ-LT-LTR-00000012, DOJ-LT-LTR-00000028; charts and other information put together in response to questions from the Government, *see* DOJ-LT-LTR-00000023; and detailed investigation findings, *see* LT00004753–4851.

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Please let us know if you have any questions. We look forward to hearing from you.

Very truly yours,
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